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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,396	09/18/2003	Theodore Benderev	MEDTR-001A	9330

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STETINA BRUNDA GARRED & BRUCKER

75 ENTERPRISE, SUITE 250

ALISO VIEJO, CA 92656

EXAMINER
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HOEKSTRA, JEFFREY GERBEN

ART UNIT	PAPER NUMBER
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3736

DATE MAILED: 04/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/666,396	<b>Applicant(s)</b> BENDEREV, THEODORE	
	<b>Examiner</b> Jeffrey G. Hoekstra	<b>Art Unit</b> 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. [1] as follows:

This application is appears to be claiming the benefit of prior-filed Disclosure Document Number 520388 but the priority claim is unclear and incomplete. The examiner notes there is no record of continuity data on 04/10/06. Appropriate correction is required for Applicant's priority claim.

### ***Information Disclosure Statement***

2. The information disclosure statement(s) (IDS) submitted on 12/31/2003 and 01/02/2004 is/are acknowledged. The submission is in compliance with the provisions of 37 CFR 1.97 and 1.98. Accordingly, the examiner is considering the information disclosure statement(s).

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 22 and 23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Process claims 22 and 23 recite "The method of claim 14" wherein claim 14 is directed towards an apparatus. Claims 22 and 23 are considered non-statutory subject matter because process claims cannot be dependent upon apparatus claims.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 22 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claims 22 and 23 recites the limitation ""The method of Claim 14" in line 1.

There is insufficient antecedent basis for this limitation in the claim. The examiner notes Applicant intended to recite "The method of Claim 21" in both claims 22 and 23, thus examination on the merits was performed in this manner. However, Applicant is informed appropriate correction is required for proper consideration.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 3736

8. Claims 1-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Brockway et al (US 6,296,615 B1).
9. For claims 1 and 11, Brockway et al discloses an anatomical pressure-sensing device 110 comprising: (a) a pressure sensor 174, 274, 542 producing a signal corresponding to the pressure; and (b) a monitor (column 4 lines 38-40) coupled to said sensor via cable 175 for receiving said signal and indicating the results.
10. For claims 2 and 12, Brockway et al discloses an anatomical pressure-sensing device 110 wherein said pressure sensor 174, 274, 542 comprises an encapsulated lattice (cross-linked) structure 130 (column 5 line 3 – column 6 lines 9).
11. For claims 3 and 13, Brockway et al discloses an anatomical pressure-sensing device 110 wherein said lattice structure selectively collapses upon external compressive force application (column 5 line 3 – column 6 lines 9).
12. For claims 4 and 14, Brockway et al discloses an anatomical pressure-sensing device 110 wherein said lattice structure incrementally collapses thereby decreasing volume in proportion to external compressive force application (column 5 line 3 – column 6 lines 9).
13. For claims 5 and 15, Brockway et al discloses an anatomical pressure-sensing device 110 wherein said lattice structure is a plastic material (column 5 line 3 – column 6 lines 9).
14. For claims 6 and 16, Brockway et al discloses an anatomical pressure-sensing device 110 wherein said pressure sensor's lattice structure comprises a member having a quantity of compressive foam 130, a variety of light, porous, semirigid or spongy

Art Unit: 3736

materials, said compressive foam transitioning between a first expansive state when a first baseline amount of pressure is applied and a second compressed state having a reduced volume corresponding to a second higher externally applied pressure (column 5 line 3 – column 6 lines 9).

15. For claims 7 and 17, Brockway et al discloses an anatomical pressure-sensing device 110 wherein said lattice structure transitions between a first non-collapsed configuration with a predetermined volume and a second collapsed configuration with a volume that is less than said predetermined volume (column 5 line 3 – column 6 lines 9).

16. For claims 8 and 18, Brockway et al discloses an anatomical pressure-sensing device 110 wherein said foam incrementally decreases in volume as a result of an externally applied higher pressure (column 5 line 3 – column 6 lines 9).

17. For claims 9-10 and 19-20, Brockway et al discloses an anatomical pressure-sensing device 110 wherein said lattice structure is encapsulated within a polymeric casing (column 6 lines 41-58).

18. For claims 21-26, Brockway et al discloses an anatomical pressure-sensing device 110 a method for measuring and monitoring the amount of pressure within an anatomical structure: (a) providing a sensor 174, 274, 542 positionable within an anatomical structure, said sensor being operative to produce a signal corresponding to the degree of externally applied pressure, and comprising an encapsulated member having an internal pressure/volume sensor generating a signal corresponding to the externally applied pressure (column 5 line 3 – column 6 lines 9); (b) providing a monitor

Art Unit: 3736

(column 4 lines 38-40), said monitor being coupled to said sensor via cable 175 and indicating the pressure/volume inside said structure as indicated by said signal generated by said sensor; (c) inserting said sensor within said anatomical structure; and (d) monitoring said signal generated by said sensor positioned in step (c) by said monitor provided in step (b) (column 11 line 44 – column 12 line 43).

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey G. Hoekstra whose telephone number is (571)272-7232. The examiner can normally be reached on Monday through Friday, 8:00 a.m. to 5:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max F. Hindenburg can be reached on (571)272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 3736

JGH



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